



October 1, 2003

**OKLAHOMA BULLETIN NO. OK360-4-1**

**SUBJECT: PER – The Good Samaritan Law**

**Purpose:** To provide information on the "Good Samaritan Law".

**Expires:** September 30, 2004

The "Good Samaritan" doctrine is a legal principle that prevents a rescuer who has voluntarily helped a victim in distress from being successfully sued for "wrongdoing." The purpose of such laws is to keep people from being reluctant to help a stranger who needs assistance for fear of possible legal repercussions, in the event that a mistake in treatment is made inadvertently by the rescuer. The Good Samaritan doctrine was primarily developed for first aid situations. Every State has its own adaptation of the Good Samaritan legal doctrine. (Okla. Stat. Tit. 76 §5.2 & 76 §5A, attached)

Oklahoma Statute uses similar or identical standards for assessing the liability of persons rendering emergency medical care. The basic standard is as follows:

"Where no prior contractual relationship exists, any person who in good faith renders or attempts to render emergency care consisting of artificial respiration, restoration of breathing, or preventing or retarding the loss of blood, or aiding or restoring heart action or circulation of blood to the victim or victims of an accident or emergency, wherever required, shall not be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care." (Okla. Stat. Tit. 76 §5.2)

Relevant individual state statutes are cited below:

**Oklahoma**

Okla. Stat. Tit. 76 §5 (1979) Gen. Stat

Okla. Stat. Tit. 76 §5A (2000) Automated External Defibrillator (AED) User Immunity

Provides immunity for rescuers

Encourages/requires cardiopulmonary resuscitation (CPR) and AED training

Retrieved from the following website: <http://www.medicalreservecorps.gov/appendixc.htm>

Oklahoma NRCS encourages employees to maintain the currency of their Red Cross certification in order to provide first aid when an event calls for immediate attention. Administrative Services is currently assessing training costs and location sites for future Red Cross Certification. Individuals will be selected for training during the first and second quarters of Fiscal Year 2004.

/s/ (Johnny Green)(Acting)

M. DARREL DOMINICK  
State Conservationist

Attachments

DIST: AE

## §76-5.

§76-5.

(a) Everyone is responsible, not only for the result of his willful acts, but also for an injury occasioned to another by his want of ordinary care or skill in the management of his property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself, and except as hereinafter provided.

(1) Where no prior contractual relationship exists, any person licensed to practice any method of treatment of human ailments, disease, pain, injury, deformity, mental or physical condition, or licensed to render services ancillary thereto, including licensed registered and practical nurses, who, under emergency circumstances that suggest the giving of aid is the only alternative to probable death or serious bodily injury, in good faith, voluntarily and without compensation, renders or attempts to render emergency care to an injured person or any person who is in need of immediate medical aid, wherever required, shall not be liable for damages as a result of any acts or omissions except for committing gross negligence or willful or wanton wrongs in rendering the emergency care.

(2) Where no prior contractual relationship exists, any person who in good faith renders or attempts to render emergency care consisting of artificial respiration, restoration of breathing, or preventing or retarding the loss of blood, or aiding or restoring heart action or circulation of blood to the victim or victims of an accident or emergency, wherever required, shall not be liable for any civil damages as a result of any acts or omissions by such person in rendering the emergency care.

(3) Where no prior contractual relationship exists, any person licensed to perform surgery or dentistry in this state who in good faith renders emergency care requiring the performance of an operation or other form of surgery upon any individual who was the victim of an accidental act shall not be liable for any civil damages or subject to criminal prosecution as the result of nonconsent whereby such person renders or attempts to render the emergency surgery or operation voluntarily and without compensation, wherever required, except for gross negligence or willful or wanton wrongs committed in rendering the care; provided, however, that the exemption granted by this subsection shall not attach if the victim is an adult who is conscious and capable of giving or refusing his consent; or if the victim's spouse, or parent, or guardian in the case of a minor or incompetent person, can be reached in a reasonable time considering the condition of the victim and consistent with good medical practice, and unless concurrence is obtained for such emergency surgery or operation from one other person licensed to perform surgery in this state.

(4) Where no contractual relationship exists, any person, or any member of his immediate family or household, who has been approved by the local P.T.A. or other local sponsoring agency or organization, who has registered with the local municipal police chief or the county sheriff, and who has been granted appropriate authorization by either the police chief or the county sheriff to indicate by sign in the window of his home or in any other tangible or identifiable manner that he will extend aid and refuge to persons on the streets in apparent danger, or in need of aid, by inviting those persons into the person's home, or onto premises thereof, and in good faith provides such refuge or aid without objection of the endangered or needy person, whether child or adult, neither the person extending the aid and refuge nor the homeowner or head of household shall be liable for civil damages as a result of actions or omissions in rendering emergency physical care to the body of the aided person; nor shall they be liable for civil damages for any other injury in the home, or on premises thereof, to the person aided, nor for any failure to provide or arrange for his police protection or other protection or medical treatment, when the actions or omissions were those of an ordinarily reasonably prudent person under the circumstances without want of ordinary care or skill.

(b) This act shall be known and may be cited as the "Good Samaritan Act."

## §76-5A.

§76-5A.

A. 1. A person who is qualified pursuant to this subsection and who, in good faith and without expectation of compensation, renders emergency care or treatment outside of a medical facility by the use of an automated external defibrillator shall be immune from civil liability for personal injury which results from the use of the device, except for acts of gross negligence or willful or wanton misconduct.

2. A person is qualified pursuant to this subsection upon successful completion of appropriate training in the use of automated external defibrillators and cardiopulmonary resuscitation. Appropriate training shall consist of a course of at least four (4) hours of training in the use of automated external defibrillators and cardiopulmonary resuscitation. Providers and instructors of these courses shall be approved pursuant to rules adopted by and shall be subject to approval or disapproval in the discretion of the Commissioner of Health. These rules may include appropriate periodic retraining at intervals established by the Commissioner by rule.

B. 1. A qualified person or entity which owns, leases, possesses, or otherwise controls an automated external defibrillator shall be immune from civil liability for personal injury which results from the use of the device, except for acts of gross negligence or willful or wanton misconduct.

2. A person or entity is qualified pursuant to this subsection if the person or entity:

a. requires users of its automated external defibrillator to be qualified pursuant to subsection A of this section, and

b. maintains and tests its automated external defibrillator according to the manufacturer's instructions.

C. For purposes of this section:

1. "Automated external defibrillator" means a medical device consisting of a heart monitor and defibrillator which:

a. has received approval of its premarket notification, filed pursuant to 21 U.S.C., Section 360(k), from the United States Food and Drug Administration,

b. is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia, and is capable of determining, without intervention by an operator, whether defibrillation should be performed, and

c. upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to an individual's heart; and

2. "Entity" means public and private organizations including, but not limited to, the State of Oklahoma and its agencies and political subdivisions, a proprietorship, partnership, limited liability company, corporation, or other legal entity, whether or not operated for profit.